

## **REMARKS**

### ***Status of Application***

Claims 1-37 are all the claims pending in the Application. Claims 6-8, 14, 21-23, and 29 are amended.

### ***Allowable Subject Matter***

The Examiner has objected to claims 10 and 25 as being dependent upon a rejected base claim, but indicates that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully holds in abeyance the rewriting of these claims pending further prosecution with respect to their parent claims.

### ***Claim Rejections Under 35 U.S.C. § 112***

Claims 6-8, 14, 21-23 and 29 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant hereby amends these claims in response to the Examiner's rejection, and respectfully submits that these claims are not now indefinite. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

### ***Claim Rejections Under 35 U.S.C. § 102***

Claims 1, 2, 15-17 and 31-36 stand rejected by the Examiner under 35 U.S.C. § 102(a) as allegedly being anticipated by U.S. Patent No. 6,529,475 to Wan et al. ("Wan"). Applicant traverses this rejection for at least the following reasons.

Amended claim 1 requires "duplicating at least part of each of said control packets." The Examiner contends that this element of claim 1 is taught by Wan at col. 8, lines 6-57. In the Amendment filed on December 11, 2007, Applicant argued that "[a]lthough this portion of Wan states that 'monitors send the information received from the RTC packets to central server 112,'

Wan does not describe ‘duplicating’ any portion of the RTC packets.” (Amendment of December 11, 2007 at 15.)

In the “Response to Arguments” section of the instant Office Action, the Examiner further cites col. 4, lines 63-67 of Wan, part of the “Summary of the Invention,” which mentions that “[t]he RTCP packets provide information on the traffic flow which is extracted by the monitors.” (emphasis added.) The Examiner contends that “extracting and subsequently forwarding information from a packet corresponds in functionality to duplicating the information from a packet.” (Office Action at 1.)

First, Applicant wishes to point out that the language of col. 4 of Wan is provided in summary, not as a detailed description of the subject matter. The detailed description of the extraction and forwarding of information from the RTCP packets, as performed in Wan, is provided in col. 8 of Wan.

Column 8 of Wan states the following:

Some simple performance statistics can be calculated at the congestion monitors, then, statistics from the sessions that are reporting performance problems will be sent to a centralized server to compile the overall picture about the network congestion status. RTCP packets provide sufficient information to derive statistics such as the packet loss rate, average payload size, connection throughput, and determine whether problems are local, regional or global.

(Wan at col. 8, lines 8-16.) (emphasis added.) Thus, Wan makes it clear that the information “extracted” or “derived” from RTCP packets, and forwarded to a centralized server, is in fact statistical information which must be calculated based on information in the RTCP packets.

Wan further states the following with reference to Fig. 3:

[T]he RTCP packets are analyzed in real time and statistical information regarding the congestion status of the network are collected as depicted in block 203. Periodically, the congestion

monitors forward the information to the central server as shown in block 204.

(Wan at col. 8, lines 44-49.) This portion further clarifies the system of Wan as analyzing and creating statistical information based on the received RTCP packets, and that this statistical information is forwarded to the central server.

Thus, as argued in the Amendment of December 11, 2007, Wan fails to teach that the information forwarded to the central server in Wan is a “duplicated part of each of said control packets” as required by claim 1. Wan merely teaches analyzing RTCP packets to create statistical information in the aggregate, which is then forwarded to a central server.

Thus, Wan fails to teach or suggest each and every element of amended claim 1, and therefore, fails to anticipate claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1 and its dependent claims 2 and 15.

Independent claim 16 recites features analogous to those of independent claim 1. Claim 16 is, therefore, also patentable at least for reasons analogous to those presented above with respect to claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 16 and its dependent claims 17 and 31-36.

#### ***Claim Rejections Under 35 U.S.C. § 103***

##### **Wan in view of Kohler, Jr.**

Claims 3 and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent Appl’n Publ’n No. 2002/0032774 to Kohler Jr. et al.

(“Kohler”). Applicant traverses this rejection for at least the following reasons.

Claims 3 and 18 depend indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Kohler, moreover, fails to make up for the above described deficiencies of Wan, as Kohler is cited merely for its

alleged teaching of sampling packets every n packets. Thus, even in combination, Wan and Kohler fail to teach or suggest each and every element of claims 3 and 18. These references, therefore, fail to render claims 3 and 18 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Bar

Claims 4, 5, 19 and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent No. 6,122,665 to Bar et al. ("Bar"). Applicant traverses this rejection for at least the following reasons.

Claims 4, 5, 19 and 20 depend indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Bar, moreover, fails to make up for the above described deficiencies of Wan, as Bar is cited merely for its alleged teaching of the features additionally recited in these dependent claims. Thus, even in combination, Wan and Bar fail to teach or suggest each and every element of these claims. These references, therefore, fail to render claims 4, 5, 19 and 20 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Hepworth

Claims 6-9, 11, 12, 14, 21-23, 25, 26 and 29 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent Appl'n Publ'n No. 2003/0120789 to Hepworth et al. ("Hepworth"). Applicant traverses this rejection for at least the following reasons.

Claims 6-9, 11, 12, 14, 21-23, 25, 26, and 29 depend directly or indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Hepworth, moreover, fails to make up for the above described deficiencies of Wan, as Hepworth is cited merely for its alleged teaching of the features

additionally recited in these dependent claims. Thus, even in combination, Wan and Hepworth fail to teach or suggest each and every element of these claims. These references, therefore, fail to render claims 6-9, 11, 12, 14, 21-23, 25, 26, and 29 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Grabelsky

Claims 6-9, 11, 12, 21-23, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent No. 6,678,250 to Grabelsky et al. (“Grabelsky”). Applicant traverses this rejection for at least the following reasons.

Claims 6-9, 11, 12, 21-23, 25 and 26 depend directly or indirectly from independent claims 1 and 16. The deficiencies of Wan with respect to independent claims 1 and 16 are demonstrated above. Grabelsky, moreover, fails to make up for the above described deficiencies of Wan, as Grabelsky is cited merely for its alleged teaching of the features additionally recited in these dependent claims. Thus, even in combination, Wan and Grabelsky fail to teach or suggest each and every element of these claims. These references, therefore, fail to render claims 6-9, 11, 12, 21-23, 25 and 26 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection.

Wan in view of Roh

Claim 37 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan in view of U.S. Patent Appl’n Publ’n No. 2004/0148417 to Roh et al. (“Roh”). Applicant traverses this rejection for at least the following reasons.

Claim 37 depends indirectly from independent claim 16. The deficiencies of Wan with respect to independent claim 16 are demonstrated above. Roh, moreover, fails to make up for the above described deficiencies of Wan, as Roh is cited merely for its alleged teaching of the

features additionally recited in claim 37. Thus, even in combination, Wan and Roh fail to teach or suggest each and every element of claim 37. These references, therefore, fail to render claim 37 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

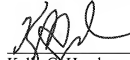
### ***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Amendment is being filed via the USPTO Electronic Filing System (EFS).

Applicants herewith petition the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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**23373**

CUSTOMER NUMBER

Date: June 18, 2008